

Appl. No. 10/623,882
Docket No. AA-600
Amdt. dated September 25, 2007
Reply to Office Action mailed on April 18, 2007
Customer No. 27752

REMARKS

Claim Status

Prior to entry of this Amendment, claims 1-8 and 10 were pending in the present application. Claims 4 and 5 are cancelled herein. Accordingly, claims 1-3, 6-8, and 10 will pending upon entry of this Amendment. No additional claims fee is believed to be due.

Claim 1 is amended herein to recite that each of the first fastening materials is joined "to the second substrate such that the longitudinal outer side edges of each first fastening material are contiguous with the longitudinal inner side edges of the first substrates." Support for these amendments can be found on page 12, lines 13-17. Claims 4 and 5 are cancelled herein in accordance with the amendment to claim 1.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection of Claims 1-4, 6 and 7 under 35 U.S.C. § 103(a)

In the Office action, claims 1-4, 6, and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,230,374 issued to Widlund (hereinafter "Widlund") in view of U.S. Patent No. 5,759,317 issued to Justmann (hereinafter "Justmann '317"), in view of French Patent No. 2,810,537 issued to Brutin (hereinafter "Brutin"), and in view of U.S. Patent No. 5,876,531 issued to Jacobs et al. (hereinafter "Jacobs").

In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See MPEP § 2143). It is respectfully submitted that the Office action does not establish a prima facie case of obviousness, because the combination of Widlund, Justmann '317, Brutin, and Jacobs does not teach or suggest all the claim limitations recited in amended independent claim 1.

As discussed above, claim 1 is amended herein to recite that each of the first fastening materials is joined to the second substrate such that the longitudinal outer side edges of each

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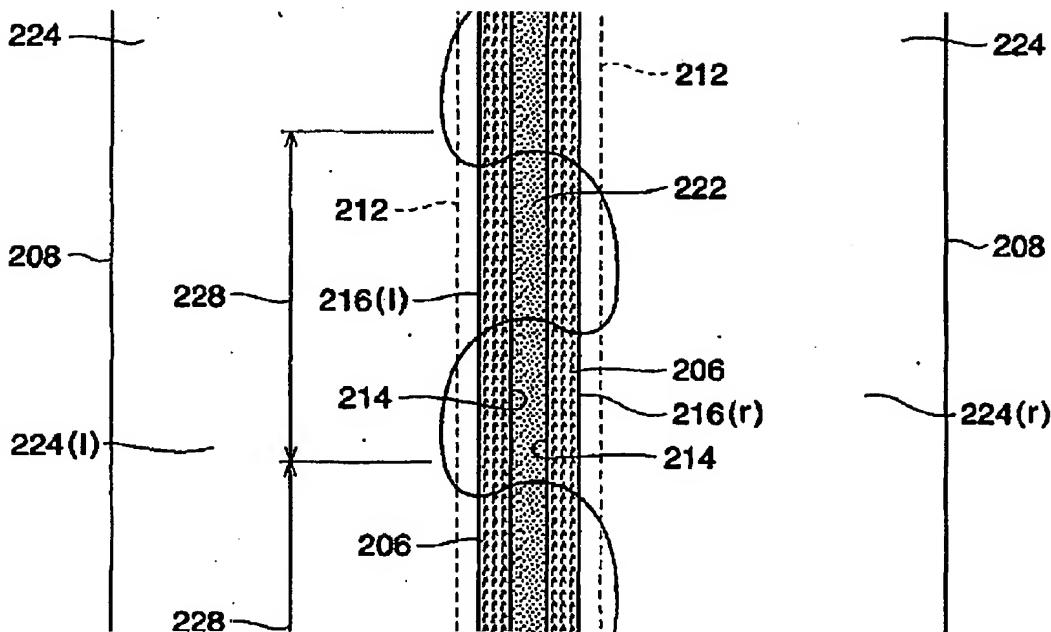
first fastening material are contiguous with the longitudinal inner side edges of the first substrates. (emphasis added). Neither Widlund, Justmann '317, Brutin, or Jacobs, either or alone or in combination, teach or suggest first fastening materials joined to the second substrate such that the longitudinal outer side edges of each first fastening material are contiguous with the longitudinal inner side edges of the first substrates, as recited in amended claim 1. Accordingly, the combination of Widlund, Justmann '317, Brutin, or Jacobs does not teach or suggest all the claim limitations of claim 1.

It is also respectfully submitted that the Office action does not establish a prima facie case of obviousness, because the combination of Widlund, Justmann, Brutin, and Jacobs is improper. The prior art must be considered in its entirety, including disclosures that teach away from the claimed invention. (*See MPEP 2145 X.D.*). It is improper to combine references where the references teach away from their combination. (*See MPEP 2145 X.D.2.*).

Claim 1 recites, a step of "cutting the continuous fastening composite web along a continuous cut line comprising a plurality of repeating patterns, each of the repeating patterns having a first side and a second side, the first and second sides extending from one panel region through the two first fastening materials to extend into the other panel region and extending to return from the other panel region through the two first fastening materials to extend into the one panel region. (emphasis added).

For the sake of clarity, an enlarged portion of Figure 6 of the present application representing one exemplary embodiment of a plurality of pairs of fastening members is shown below:

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As can be seen in the above figure, each of the repeating patterns extends from one panel region through the two first fastening materials to reach the other panel region.

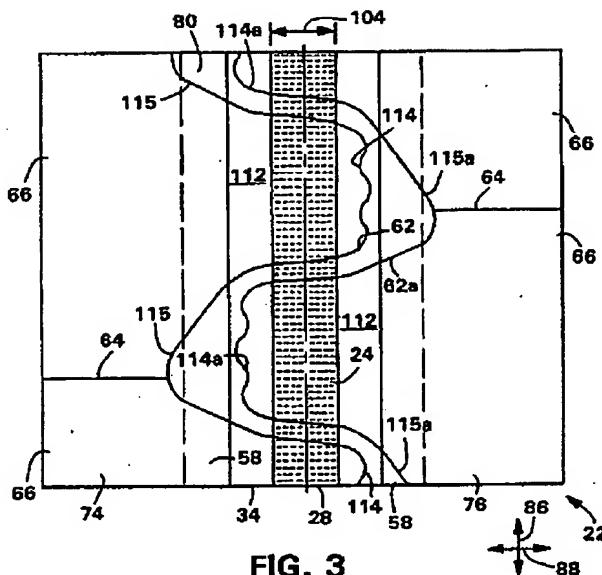
In modifying Widlund with Justmann '317, the Office action does not consider the disclosure of Justmann '317 in its entirety. In particular, the Office action does not consider portions of Justmann '317 that teach away from the both claimed invention as well as the asserted combination with Widlund. The Office action of April 18, 2007 asserts that Widlund shows a method step of "cutting the continuous fastening composite web along a single continuous cut line, 14, comprising a plurality of repeating patterns, each of the patterns extending from one panel region through the first fastening material to extend into the other panel region and returning to the one panel region again through the first fastening material." (See Office action of April 18, 2007, page 6). However, Justmann '317 teaches away from the aforementioned asserted teaching of Widlund as well as the method steps of claim 1.

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In particular, Justmann '317 discloses a composite web 22 divided along a first serpentine division line 62 and a second serpentine division line 62a, which are non-intersecting. (See Justmann '317, Col. 4, ll. 15-18). The serpentine division lines repeatedly traverse across a substantially complete lateral width 104 of the first mechanical fastening component web and extend generally longitudinally along a medial region 28 of the composite web 22 to provide for a serpentine strip 80 which can be removed away and separated from the composite web. (See Justmann '317, Col. 4, ll. 18-24, emphasis added). The first and second serpentine division lines each have a first plurality of laterally inboard hill regions 114 (114a) and relatively outboard valley regions 115 (115a) which alternate in occurrence along the longitudinal dimension 86 of the composite web 22. (See Justmann '317, Col. 4, ll. 24-31). Desirably, the first and second serpentine division lines are substantially coextensive, and the hill regions 114 and 114a of the first and second serpentine division lines do not extend into the webs of panel material 56. (See Justmann '317, Col. 4, ll. 31-35, emphasis added). Applicants respectfully submitted that because the hill regions 114 and 114a of the first and second serpentine division lines of Justmann '317 do not extend into the webs of panel material 56, Justmann '317 teaches away from the claimed invention.

For the sake of clarity, Figure 6 of the Justmann '317 is represented below.

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Based on the above explanation, it is respectfully submitted that since Justmann '317 teaches that "the hill regions 114 and 114a of the first and second serpentine division lines do not extend into the webs of panel material 56," consequently Justmann '317 teaches away from the claimed invention as well as the asserted combination with Widlund. In particular, Justmann '317 teaches away from the method of claim 1, which recites a method step of "cutting the continuous fastening composite web along a continuous cut line comprising a plurality of repeating patterns, each of the repeating patterns having a first side and a second side, the first and second sides extending from one panel region through the two first fastening materials to extend into the other panel region and extending to return from the other panel region through the two first fastening materials to extend into the one panel region. (emphasis added). Furthermore, Justmann '317 teaches away from a combination with Widlund, which it is asserted, shows a method step of "cutting the continuous fastening composite web along a single continuous cut line, 14, comprising a plurality of repeating patterns, each of the patterns extending from one panel region through the first fastening

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material to extend into the other panel region and returning to the one panel region again through the first fastening material." (See Office action of April 18, 2007, page 6).

It is also respectfully submitted that the asserted motivation for the combination of Widlund and Justmann '317 provided by the Office action is not properly supported. The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. (See MPEP 2142). In addition, the initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. (See MPEP 2142). With regard to the combination of Widland and Justmann '317, the Office action of April 18, 2007 states: "Widlund does not show two first substrates *laterally spacedly positioned*," and that the examiner "has modified Widlund with the secondary reference to Justmann which shows a fastening composite web with two longitudinally extending first substrates laterally spacedly positioned and a longitudinally extending second substrate therebetween." (See Office action of April 18, 2007, page 6). As such, the Office action is attempting to modify Widlund by, first, laterally spacing opposing side portions of the substrate of Widlund apart from each other. Next, the Office action attempts to further modify Widlund by inserting a second substrate disclosed in Justmann '317 between the laterally spaced substrates. The Office action asserts that the motivation to modify Widlund by the suggested configuration of Justmann '317 comes from the economic reality that less material used translates to lower cost of materials. (See Office action of April 18, 2007, page 6). Contrary to the Office action's asserted motivation, it would seem that spacing opposing side portions of the Widlund substrate apart from each other and inserting a second substrate between spaced apart side portions of the Widlund substrate would not result in less material being used. Further, the process of manufacture would seem to be made more complex and costly by the addition of a second substrate, which presumably would have to be cut, aligned, and connected with the first substrates.

The Office action then attempts to further modify Widlund by replacing the single fastening material of Widlund with the pair of spaced fastening materials of Brutin. (See

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Office action of April 18, 2007, page 3). In support of the aforementioned modification, the Office action asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made “because the two methods are shown to be functional equivalents of each other for making pairs of fastening members.” (See Office action of April 18, 2007, page 3). However, it would seem that the replacement of the single fastening material of Widlund with the pair of spaced fastening materials of Brutin would increase the amount of material used, which contrasts the asserted motivation for modifying Widlund with Justmann ‘317.

Next, the Office action attempts to further modify Widlund with the second fastening material as disclosed in Jacobs. (See Office action of April 18, 2007, page 3). In support of the aforementioned modification, the Office action asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the second fastening material with a lowered density of fastening elements as shown by Jacobs onto the second substrate of the previously combined references “because Jacobs et al. shows this different fastening material can lower the bond strength at the edge of the resultant fastening members without lower the bond strength of the fastening members to each other,” and that “this configuration has the advantage of making it easier for a user to grasp the edge region of the fastening member when it is desired to disconnect the fastening members.” (emphasis added). However, the second fastening material as claimed is located between the first fastening materials, as opposed to the being located near an edge region adapted for grasping. As such, the second fastening material as claimed would not necessarily make it easier for a user to grasp the edge region of the fastening member. Further, it would seem that the addition of the second fastening material to the references as combined in the Office action would increase the amount of material used, which also contrasts the asserted motivation for modifying Widlund with Justmann ‘317.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claim 1 is patentable under 35 U.S.C. § 103(a) over Widlund in view of Justmann ‘317, Brutin, and

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Jacobs. Claims 2, 3, 6, and 7 depend from and include all the limitations of claim 1. Thus, claims 2, 3, 6, and 7 are patentable under 35 U.S.C. § 103(a) over Widlund in view of Justmann '317, Brutin, and Jacobs for at least the same reasons discussed above with regard to claim 1. Dependent claim 4 is cancelled herein, rendering the rejection of claim 4 moot.

In the Office action, claims 5, 8, and 10 are also rejected under 35 U.S.C. § 103(a). In particular, claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Widlund in view of Justmann '317, Brutin, and Jacobs, and in further view of U.S. Patent No. 5,399,219 issued to Roessler et al. (hereinafter Roessler). Claim 8 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over Widlund in view of Justmann '317, Brutin, and Jacobs, and in further view of U.S. Patent No. 5,624,429 issued to Long et al. (hereinafter Long). In addition, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Widlund in view of Justmann '317, Brutin, and Jacobs, and in further view of U.S. Patent No. 6,195,850 issued to Melbye et al. (hereinafter Melbye).

Claim 5 is cancelled herein, rendering the rejection of claim 5 moot. It is also submitted that neither Long nor Melbye correct for the deficiencies of the combination of Widlund, Justmann '317, Brutin, and Jacobs as discussed above. As such, claim 1 is believed patentable under 35 U.S.C. § 103(a) over Widlund in view of Justmann '317, Brutin, Jacobs, Long, and/or Melbye. Claims 8 and 10 depend from and include all the limitations of claim 1. Thus, claims 8 and 10 are patentable under 35 U.S.C. § 103(a) for at least the same reasons discussed above with regard to claim 1.

Therefore, it is believed that claims 1-3, 6-8, and 10 are in form for allowance and such indication is respectfully requested.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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